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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/435,168	11/05/1999	SANJAY P. MURALIDHAR	1899-001	4848

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EXAMINER

ZEENDER, FLORIAN M

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/435,168	Applicant(s) MURALIDHAR, SANJAY P.	
	Examiner F. Ryan Zeender	Art Unit 3627	<i>NW</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25 and 39-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25, 39-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 25 and 39-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 25, line 9, it is not clear whether "event" refers to the same event as claimed in line 3 or to a separate event that has previously taken place (i.e., a qualifying event). *It is suggested the terminology, "event advancement or qualification associated" be changed to –advancement to or qualification for the event associated--.*

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25, 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. '127 in view of "ebay.com" and Official Notice.

Walker et al. disclose all the limitations of the claims except: the price terms set between participants in the exchange (*if the terminology "between participants" were interpreted to be only between a buyer and a seller*); the options involving sporting events, the price determined by market conditions, and vesting of the option occurring

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through advancement to or qualification for the event associated with the attendance right.

The "ebay.com" website teaches an exchange system whereby price terms are set between the buyer and the seller in an auction, the exchange system involving the selling of sporting event tickets, the pricing information being determined by market conditions (i.e., supply and demand), and pricing information further being pre-set by the seller in an optional "buy-it-now" feature.

It would have been obvious to one of ordinary skill in the art to modify Walker et al. to have the price terms set between participants in the exchange (*if the terminology "between participants" were interpreted to be only between a buyer and a seller*); the options involving sporting events, and the price determined by market conditions, in view of ebay.com, in order to provide a means for sport fans to buy options for tickets at an agreed upon price.

The Examiner takes Official Notice that at the time of the invention, it was well known in the art of ticket sales for post-season tournament events (i.e., College Basketball) that alumni who gave large gifts ("Top" member or "Coaches Club" member) to a respective college's alumni association during the preseason would be awarded the option to purchase tournament tickets at the end of the regular season for the subsequent rounds in the tournament in which the respective team qualifies. (*See the previously cited document: "Official Athletic Site of the University of Maryland", pages 3-5, for an example of the procedure for ticket sales that is well known at major Universities*). Also, see Examiner's rejection mailed on January 31, 2003.

Response to Arguments

Applicant's arguments filed 4/12/2004 have been considered but they are not fully persuasive. The issues with regards to 35 USC 101 have been overcome, however, the claims continue to be rejected based on prior art and 35 USC 112.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (703) 308-5183. The receptionist's phone number for the Technology center is (703) 308-1113.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for before Final communications and (703) 872-9327 for after Final communications.

F. Zeender
Primary Patent Examiner, A.U. 3627
August 11, 2004

